

## **EXHIBIT H**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JOSHUA ASSIFF, )  
)  
Plaintiff, )  
)  
vs. ) Case No. 2:22-cv-05367  
) RGK (MAAx)  
COUNTY OF LOS ANGELES; )  
SHERIFF DEPUTY BADGE )  
NUMBER 404532; And DOES 1 )  
through 10, )  
)  
Defendants. )  
\_\_\_\_\_ )

Deposition of: JOSHUA ASSIFF

Date and Time: Friday, April 14, 2023  
10:04 a.m.

Place: 841 Apollo Street  
Suite 100  
El Segundo, California

Reporter: Dorothy M. Simpson, CSR  
Certificate No. 14323

1 We're starting at about 24 seconds into the video.

2 (Video playing.)

3 BY MS. GUPTA:

4 Q. Okay. So from about 24 seconds into the  
5 video to about 36 seconds into the video, you are having  
6 an exchange with Sgt. Kelly; is that accurate?

7 A. Yes.

8 Q. And during that exchange, you're trying to  
9 explain what you were trying to explain to me about  
10 going to basketball practice. Is that accurate?

11 A. Yes. Yes.

12 Q. Okay. And what was your intent in giving him  
13 that information?

14 A. Just let him know that I was on a time  
15 crunch. As you could see right then in the video, it's  
16 7:53. Antelope Valley is about 45 to 50 minutes away,  
17 and I was trying to make it on time to practice about 15  
18 minutes early.

19 At the point when I got pulled over, it 7:40.  
20 So at the rate I was going, I would have been there  
21 probably about 20 to 30 minutes early for practice. So  
22 that was my whole entire goal.

23 Q. Got it. So you weren't in the Antelope  
24 Valley at the time of the traffic stop; correct?

25 A. No, this is Canyon Country, ma'am.

1 Q. Okay. And that's in Santa Clarita Valley;  
2 correct?

3 A. Yes, it is.

4 THE REPORTER: Okay. You guys are going too fast.

5 MS. GUPTA: Sorry.

6 THE WITNESS: Sorry.

7 THE REPORTER: Okay.

8 BY MS. GUPTA:

9 Q. And where you were in -- in the Exhibit C,  
10 the video that we see, you said that was about 45  
11 minutes to an hour away from Antelope Valley?

12 A. Yes.

13 Q. Okay. And do you know how many -- how many  
14 miles that is?

15 A. No, I do not.

16 Q. Okay. It's about 50 miles; is that accurate?

17 A. Around there. 50 to 55. I'm not sure about  
18 the -- the exact mileage.

19 MS. GUPTA: Got it. Okay. All right. So right  
20 around 35 seconds into the video, let's start there.  
21 Okay?

22 (Video playing.)

23 BY MS. GUPTA:

24 Q. Okay. Would you agree with me around 35  
25 seconds into the video, Sgt. Kelly makes a request for



1 prior testimony. Mischaracterizes the video. Vague and  
2 ambiguous as to struggle.

3 BY MS. GUPTA:

4 Q. We can we go back and read that question and  
5 answer I just asked you, that you continued to struggle  
6 with Sgt. Kelly for 16 seconds.

7 And you agreed with me that that -- there was  
8 a struggle between you and Sgt. Kelly for 16 seconds.  
9 Is that accurate?

10 A. Yes, ma'am.

11 Q. What I am asking you is why did you continue  
12 to struggle with Sgt. Kelly for about 16 seconds,  
13 remaining in your vehicle until that second officer  
14 arrived?

15 So just for that 16-second time period  
16 between when you get pepper sprayed and a second officer  
17 arrives on scene, why did you continue to struggle with  
18 Sgt. Kelly during that time period?

19 A. I was pepper sprayed in the face, and I felt  
20 like I was being taken advantage of.

21 Q. Okay. So at that point --

22 A. By a man with a -- sorry to interrupt you.  
23 By a man with a gun and a badge.

24 Q. So after you were pepper sprayed at  
25 approximately one minute and 19 seconds into the video,

1 were you consciously struggling with Sgt. Kelly?

2 A. Consciously or constantly? Sorry.

3 Q. Consciously.

4 A. Consciously?

5 Q. Were you making a conscious decision to

6 remain in your car, struggle with him, --

7 A. Yes.

8 Q. -- resist his efforts to get you out of the

9 vehicle?

10 A. Yes.

11 Q. Okay. And why were you continuing to do so?

12 A. I didn't feel safe being removed from my

13 vehicle.

14 Q. Okay. At any point during the incident, did  
15 you come to an understanding -- and I understand you got  
16 pepper sprayed -- but did you perceive that another  
17 officer had arrived on scene?

18 A. Yes. At one point I thought it was maybe  
19 three officers to my recollection when I was thrown on  
20 the ground. I had no idea how many officers it was. I  
21 did have a recollection of another officer being there,  
22 yes, but I had no idea how many it was.

23 Q. Okay.

24 A. There was too much going on with my senses.

25 Q. That's completely understandable.

1 So you did not see any officers other than  
2 Sgt. Kelly but you did perceive that there were other  
3 officers?

4 A. I could perceive it, yes. Yes.

5 Q. And could you perceive that you were  
6 struggling physically with more than one officer at some  
7 point during the incident?

8 A. Yes.

9 Q. Could you perceive that you were struggling  
10 with at least three officers during the incident?

11 A. Seemed like more than one person. I -- I  
12 don't.

13 Q. More than --

14 A. Two to three.

15 Q. -- two to three?

16 A. No -- no more than that, ma'am.

17 Q. Perfect. At any point during the incident,  
18 do you know if you got tasered?

19 A. I did.

20 Q. And you felt it?

21 A. Yes.

22 Q. And do you know approximately how many times  
23 you were tasered?

24 A. I would have to watch the video. I would say  
25 maybe three, four times approximately. I would have to

1 watch the video to give you more of a accurate number.

2 Q. Sure. And I'm just asking for your  
3 recollection.

4 A. I understand.

5 Q. And none of this is a quiz at all, so...

6 A. I understand.

7 Q. Okay.

8 A. Trying to give you the best answer that you  
9 are looking for.

10 Q. And again, I'm just not -- I'm not looking  
11 for anything beyond the truth.

12 A. Exactly.

13 MS. GUPTA: Okay.

14 (Video playing.)

15 BY MS. GUPTA:

16 Q. Okay. I'm sorry. I apologize, I know that  
17 that was difficult to watch for you. But let me just  
18 ask you a couple of questions.

19 So would you agree with me that starting at  
20 about one -- one minute and 35 seconds into the video,  
21 once the second officer joins the scene, there are now  
22 two officers trying to pull you out of your vehicle. Is  
23 that accurate?

24 A. Yes.

25 Q. Okay. And would you agree with me that

1 starting at about 1.35 to about two minutes and 20  
2 seconds into the video, you're -- two minutes and 24  
3 seconds into the video, so that's about a time period of  
4 49 seconds -- 49 to 50 seconds, that you are actually  
5 struggling with two police officers who are trying to  
6 pull you out of the vehicle, and you are still  
7 continuing to struggle with the both of them. Is that  
8 accurate?

9 A. Yes.

10 Q. And tell me why you continued for that 59 or  
11 40 second -- sorry -- 49 or 50-second time period  
12 between the second officer arriving and you actually  
13 being taken out of the vehicle? Why did you continue to  
14 struggle for that 50-second time period?

15 A. I thought I was being abused, and I was  
16 hoping someone would come to help me.

17 Q. And at any point during the video did you --  
18 strike that.

19 At any point prior to the incident, did you  
20 hear any of the officers tell you that you would be  
21 tasered prior to the time that you were first tasered?

22 A. No.

23 Q. Okay. So you were never warned prior to  
24 being tasered?

25 A. No.

1 Q. And had you been warned prior to being  
2 tasered, would you have stopped struggling?

3 A. I don't know.

4 MR. FERLAUTO: Objection. Calls for speculation.  
5 Calls for an incomplete hypothetical.

6 THE WITNESS: I don't know. I don't know.

7 MS. GUPTA: Do you need a minute to stretch your  
8 legs?

9 THE WITNESS: I'm okay. Sorry. Just my knees  
10 hurt.

11 MS. GUPTA: Anytime you want to take a break, let  
12 me know.

13 THE WITNESS: Thank you.

14 MS. GUPTA: All right. Let's continue watching,  
15 but obviously communication from this point devolves so  
16 we're not going to have as much questions for you.

17 THE WITNESS: Okay.

18 (Video playing.)

19 BY MS. GUPTA:

20 Q. Okay. So we're about three minutes and five  
21 seconds into the video.

22 Has watching the video refreshed your  
23 recollection as to the number of times you believe you  
24 were tasered during the incident?

25 A. Yes, but I'd have to watch it again. I

1 wasn't counting. I was just watching the video. You  
2 would have to play it again if you want a number.

3 Q. Okay, so as you sit here right now, it hasn't  
4 refreshed your recollection.

5 A. I was just watching me getting tased on the  
6 ground and being abused. I wasn't thinking about the  
7 numbers, no.

8 Q. Okay. That's okay. I was just wondering if  
9 it had.

10 I know you mentioned previously that you did  
11 not typically smoke marijuana through a pipe of any  
12 sort. Did you ever purchase a marijuana pipe ever?

13 A. In my life?

14 Q. Prior to the date of the incident?

15 A. Yes, I have.

16 Q. Okay. And where did you purchase that?

17 A. I have no idea.

18 Q. Approximately how many times had you  
19 purchased a marijuana pipe prior to the incident?

20 A. Once.

21 Q. Okay. And do you know, had you ever used it?

22 A. Yes.

23 Q. Had you ever used it in your car?

24 A. No.

25 Q. Where did you typically keep the marijuana



1 pipe?

2 A. I can't recall.

3 Q. Had -- did you ever keep the marijuana pipe  
4 in your vehicle?

5 A. I can't recall.

6 Q. Had you ever smoked marijuana in your vehicle  
7 prior to the date of the incident?

8 A. No.

9 Q. Are you -- do you know one way or the other  
10 whether there was a marijuana pipe in your vehicle on  
11 the date of the incident?

12 A. Yes, there was.

13 Q. And is that the same marijuana pipe that you  
14 had purchased?

15 A. Yes.

16 Q. And when was the last time you had used it  
17 prior to the date of the incident?

18 A. I have no idea.

19 Q. What was it doing in your car?

20 A. Sitting there collecting dust.

21 Q. Okay. Why was it in your car? Had you ever  
22 used it in your car before?

23 A. No. Just in my car. I didn't want to take  
24 it inside my house.

25 Q. And did you typically smoke marijuana in your



1 car?

2 A. No.

3 Q. So when you used the marijuana pipe for  
4 smoking, would you take it out of the vehicle?

5 A. (No verbal response.)

6 Q. Smoke, put -- store it back in your vehicle?

7 A. Yes, ma'am.

8 Q. And where did you typically store it?

9 A. In the console. Center console.

10 Q. Is that the same place where your phone was?

11 A. No, ma'am.

12 Q. Okay. Okay.

13 A. It was in between where the two -- driver's  
14 side and the passenger side, front seat.

15 Q. Got it. There's like a little flap that  
16 opens up, and you can store stuff inside?

17 A. Um-hum.

18 Q. Do you know if you had a lighter that day?

19 A. Yes, there was a lighter in my car.

20 Q. Do you know if you had any marijuana that  
21 day?

22 A. No, there was no marijuana in my car.

23 Q. When -- prior to that date of the incident,  
24 when is the last time, regardless of whether you smoked  
25 in your car that you trapped -- that you had marijuana

1 in your car, just whether you were bringing it from the  
2 store --

3 A. When was the last time?

4 Q. Yes.

5 A. Prior to the incident? I have no idea.

6 Q. Okay.

7 A. No idea.

8 Q. And on the date of the incident, were you  
9 aware that there was an odor of marijuana in your car?

10 A. No.

11 Q. And would it surprise you to learn that  
12 someone perceived an odor of marijuana in your vehicle  
13 that day?

14 A. Yes, it would surprise me, yes. Because  
15 there was no smoking in my vehicle.

16 Q. Okay. Was that a rule you've had?

17 A. Just trying to keep my car clean, that's all.

18 Q. Okay. At any point during the incident prior  
19 to Sgt. Kelly opening the driver's side door of your  
20 vehicle, do you believe that you were agitated?

21 A. No.

22 Q. At any --? Same question. Do you believe  
23 you were irritated?

24 A. Yeah.

25 Q. And why were you irritated?

1           A.       7:40 a.m., and it was an unfortunate problem  
2       that came my way that unfortunately I was not trying to  
3       deal with at that time of the day.

4           Q.       It was an inconvenience to be pulled over?

5           A.       Yes, it was.

6           Q.       It was making you late?

7           A.       Yes, it was. I didn't ever make it to  
8       practice.

9           Q.       And you stated that initially when you  
10       started talking rapidly at the officer, your intention  
11       was to avoid getting a ticket as you had previously done  
12       in the past at the multiple occasions. Is that  
13       accurate?

14          A.       Yes.

15          Q.       Would it be accurate that at -- at least at  
16       some point prior to Sgt. Kelly opening the passenger  
17       side door, you were argumentative with him?

18          A.       Yes.

19          Q.       Were you aware that if you contested the  
20       validity of a traffic citation that you could do so in  
21       traffic court?

22          A.       Yes.

23          Q.       Okay. And is there a reason why you chose to  
24       continue arguing with Sgt. Kelly instead of explaining  
25       yourself to a traffic judge?

1 A. I was trying to go to practice. Yes. That's  
2 exactly the reason. Just trying to make it so he would  
3 let me go so I could go to practice.

4 Q. In your estimation, it would be quicker to  
5 talk to him and have him let you go than to go through  
6 the process of him writing the ticket --

7 A. That's what I thought, yes.

8 Q. All right. Do you think that Sgt. Kelly was  
9 racially profiling against you at the start of the  
10 traffic stop?

11 A. I think so, yes.

12 Q. So you think he decided to pull you over  
13 because of the color of your skin?

14 A. I think that -- I think --. Sorry.  
15 Correct -- correct that.

16 I think that once he pulled me over and he  
17 saw the color of my skin and my hair, I think that's  
18 when it tipped the iceberg.

19 Q. But when he initiated the traffic stop, when  
20 he asked you to pull over, you --

21 A. He just thought I ran the red light.

22 Q. Okay.

23 MR. FERLAUTO: I'm going to move to strike as calls  
24 for speculation.

25 MS. GUPTA: I'm going to object to that. I think

1 it was responsive.

2 BY MS. GUPTA:

3 Q. Did you think that Sgt. Kelly was angry with  
4 you or upset with you?

5 A. Yes.

6 Q. And you said you had never previously had any  
7 interaction; correct?

8 A. No.

9 Q. You didn't know his name?

10 A. No.

11 Q. You didn't know him by reputation?

12 A. No.

13 Q. And since that date, have you learned  
14 anything about Sgt. Kelly other than -- outside of the  
15 interaction you had with him?

16 A. I know nothing about him, ma'am.

17 Q. Has anyone ever told you that he's a racist  
18 man?

19 A. I know nothing about him, ma'am.

20 Q. Other than the fact that you are black, is  
21 there any other reason you believe that Sgt. Kelly  
22 profiled you racially?

23 A. My long hair. Some people just don't like  
24 that.

25 Q. Any other reason?

1 A. No. Because you can't see how tall I am  
2 until he opens the door so...

3 Q. But typically you have people profile you  
4 because of your height?

5 A. No, just -- just my skin. Like, I mean, like  
6 if you want to say profile, you mean, trying to guess my  
7 character, sure, yeah.

8 Q. Okay. So when you -- when I say the word  
9 profile, you're saying -- you hear that someone's  
10 judging you on your character based on the color of your  
11 skin?

12 A. They are just profiling me based on what I  
13 look like. You know, he's a tall guy, he might be doing  
14 this, he might be doing that. I understand what you  
15 mean. I understand what profiling means. I understand.

16 Q. And do you understand that that's one of the  
17 claims that you're making, that Sgt. Kelly racially  
18 profiled?

19 A. Yes.

20 Q. Okay. And you agree that that's true?

21 A. Yes.

22 Q. Okay. I think we talked about when  
23 Sgt. Kelly first opened the driver's side door to your  
24 vehicle. I believe you testified that he touched  
25 your -- would it be your left arm that he touched?

1 A. It was my left arm he grab -- not touched.

2 He grabbed me.

3 Q. And how hard did he grab you?

4 A. He tried to pull me out the vehicle.

5 Probably as hard as he could.

6 Q. So when he grabbed you, you could feel him

7 pulling you out of the vehicle?

8 A. Yes.

9 Q. And do you know approximately how long after  
10 he grabbed you that you pulled your arm away?

11 A. I pulled it back immediately as quick as I  
12 could.

13 Q. Okay. Did you feel any pain or an injury to  
14 your arm when Sgt. Kelly first grabbed you?

15 A. Not when he first grabbed me, no.

16 Q. Have you ever participated in any sort of  
17 political activity relative to any sort of police  
18 enforcement, either, you know, Defund the Police events  
19 or anything like that?

20 A. No.

21 Q. No political rallies or anything like that?

22 A. No.

23 Q. Have you ever -- have you ever participated  
24 in a political demonstration of any kind?

25 A. No.



DEPOSITION OFFICER'S CERTIFICATION

I, DOROTHY M. SIMPSON, CSR No. 14323,  
Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth, at  
which time the witness declared under penalty of  
perjury; that the testimony of the witness and all  
objections made at the time of the examination were  
recorded stenographically by me and were thereafter  
transcribed under my direction and supervision;

That the foregoing is a full, true, and  
correct transcript of my shorthand notes so taken and of  
the testimony so given;

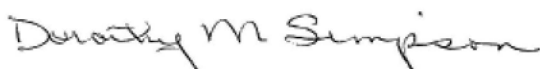
(X) Reading and signing was requested.

( ) Reading and signing was waived.

( ) Reading and signing was not requested.

I further certify that I am not financially  
interested in the action, and I am not a relative or  
employee of any attorney of the parties, nor of any of  
the parties.

I declare under penalty of perjury under the  
laws of California that the foregoing is true and  
correct. Dated this 25th day of April, 2023.

  
Dorothy M. Simpson, CSR No. 14323